

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATE OF AMERICA
PLAINTIFF

§

v.

Case No. 22-CV-1159
November 25, 2023.

§

ANDREW SINCLAIR / B4B EARTH TEA
LLC / B4B CORP
DEFENDANT

MOTION TO COMPEL DISCOVERY

Defendant Andrew Sinclair moves this Court pursuant to FED. R. CIV. P. 33 for full and complete responses to the First Set of Interrogatories Requests sent to Plaintiff November 17, 2023. In support of this Motion, Defendant relies upon and incorporates by reference the facts and arguments in support of this motion. Good Faith to Confer was sent to Plaintiff on November 20, 2023.

Introduction:

On March 3, 2022 Andrew Sinclair was sued by the United States of America. In the lawsuit there were numerous accusations, stated below under arguments. On Nov 17, 2023 Defendant Andrew Sinclair request plaintiff to respond to his first set of Interrogatories. The response to Defendant's relevant interrogatories was not full and complete.

Facts:

The Natural supplement law states that the burden of proof is on the United States of America to prove “false or misleading.” Earth Tea Extra Strength is a Natural Supplement. The plaintiff’s website FDA.gov clearly states, “Dietary supplements are regulated by the FDA as food, not as drugs.” The FDA who is the plaintiff also has the capabilities to detect synthetic and illegal substances in liquid.

The Plaintiff publicly accused Defendant of the below arguments.

Arguments

1) The lawsuit accused Andrew Sinclair the Defendant of false advertising, deceptive advertising, unsubstantiated claims, false or unsubstantiated advertising, baseless claims, false claims, false or misleading representations, deceptive acts, deception and misleading advertising.

2) The lawsuit also claimed Mr. Sinclair’s clinical trial “even if accurate, do not comprise competent and reliable scientific evidence”

3) Publicly on the plaintiff’s websites: FTC.GOV the plaintiff makes the following statement pertaining to the lawsuit:

3a) “In bringing this matter with our partners at the Department of Justice and the Food and Drug Administration, the Commission continues its commitment to using every tool available to stop and deter those who would treat the pandemic as opportunity to peddle “**bogus treatments.**” ”

3b) “The defendants behind Earth Tea cite one **15-person** study conducted in India to support their health claims for Earth Tea, but the study has a **small sample size**, no control group, and the results were never published in a recognized scientific journal”.

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For the foregoing facts and arguments above, Defendant respectfully requests that this Honorable Court enter an order compelling Plaintiffs to provide full and complete responses to the following Interrogatory.

Interrogatory No. 2,

List all names and order numbers of customers / consumers who reported fraud and their reason for purchase.

Interrogatory No. 3,

List all names and order numbers of customers / consumers who reported being scammed and their reason for purchase.

Interrogatory No. 4,

List all names and order numbers of customer / consumers who reported deception and their reason for purchase.

Interrogatory No. 7,

Outline in details test, research or provide evidence that was done to supports Plaintiff's claims of false advertising and deceptive advertising.

Interrogatory No. 10,

Present specific evidence of deception, with lab result, research results or independent lab analysis done to support deceptive claims mentioned numerous times in Plaintiff accusations

Interrogatory No. 12,

Present communication evidence, with India's clinical trial department that supports Plaintiff's claim that Clinical trial done by defendant is fake.

Interrogatory No. 19,

State what specifically pertaining to Earth Tea Extra Strength is considered unfair, deceptive or affecting commerce. (Stated in the lawsuit filed).

Respectfully submitted,

/s/ Andrew Sinclair

Andrew Sinclair

Defendant

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Case No. 22-CV-1159

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CERTIFICATE OF SERVICE

I, Andrew Sinclair Defendant do hereby certify that, on this November 25, 2023, I caused a copy of the foregoing document to be served on James T. Nelson james.nelson2@usdoj.gov Michael S. Blume michael.blume@usdoj.gov, Zachary Alan Dietert zachary.a.dietert@usdoj.gov by agreed communications via email.

/s/ Andrew Sinclair
Andrew Sinclsr
November 25, 2023